

REMARKS

In the Office Action of August 6, 2008, the Examiner objected to the numbering of claims 8, 9 and 10. Inadvertently, two claims had been numbered claim 8. This has been corrected with the present amendment.

Claims 1 and 4-10 stand rejected under 35 U.S.C. § 112, first paragraph, for not complying with the requirement for written description. The Examiner objected that the language reads on a genus of viruses that can produce antibodies to neutralize the deposited virus, and has alleged that one of ordinary skill would not recognize from the specification that the Applicants were in possession of the claimed invention.

The rejection of claims 1 and 4-10 under 35 U.S.C. § 112, first paragraph, is respectfully traversed. Applicants have, in fact, identified a new chicken astrovirus, which they have identified as chicken astrovirus type 2, for short CAsV-2. The defining example of this virus has been deposited under accession number I-2932 at the CNCM, as recited in the claims. In addition to the deposited virus, Applicants have also demonstrated that they had two other isolates of the same chicken astrovirus type 2. In demonstrating that the other two isolates are of the same type, Applicants showed, in the results in Table 2 on page 14 of the specification, that the other viruses of this type demonstrate minimum levels of cross neutralization antibody titer and immunofluorescence. The second characteristic, immunofluorescence, is now included among the limitations recited for the chicken astrovirus type 2 of claim 1. In Example 2, beginning on page 9 of the specification, Applicants provided a written description of the immunological characterization of chicken astrovirus type 2, including a detailed description of the virus neutralization assay used, as well the immunofluorescence test (pages 10 and 11).

To demonstrate the unique characteristics of the chicken astrovirus type 2 compared with other avian astroviruses, Applicants provided in Tables 1a and 1b, on pages 12 and 13 of the specification, a comparison of neutralization and immunofluorescence results comparing AS2 with ANV and TasV (Table 1a) and AS1 with ANV and DVH-2 (Table 1b). Then, in Table 2, on page 14, the high levels of cross-reactivity for neutralization and immunofluorescence among AS1, AS2 and AS3 are reported, which may be compared with the negligible cross-reactivity

results reported for the non type 2 astrovirus isolates in Tables 1a and 1b.

Applicants have provided a deposited example of their new chicken astrovirus type 2, they have illustrated that other isolates of the same virus have been found and characterized, and they have provided a complete written description of the methods used for measuring neutralization and immunofluorescence that any skilled practitioner can use to determine whether or not any example of a chicken astrovirus is within the definition of Applicants new chicken astrovirus type 2

The Examiner concluded that Applicants' arguments are not persuasive because the claim, even with the specific minimum requirements for neutralization, would read on any virus that can induce cross-reactive antibodies to neutralize a deposited strain. Quite contrary to the Examiner's conclusion, Applicants have defined a new type of chicken astrovirus that is defined by a comparative neutralization titer with the deposited virus. Applicants have provided a written description and a process for making and using their novel type 2 astrovirus, in such full, clear, concise and exact terms as to enable any person skilled in the art for which it pertains to make and use the same, as well as setting forth the best mode. That is all that is required under the statute and those requirements have been met.

In view of the above it is believed that claim 1 and 4-10 are in condition for allowance. Favorable action is solicited.

Pursuant to 37 C.F.R. § 1.116, Applicants submit that the amendments presented herein are made to i) cancel claims or comply with any requirement of form expressly set forth in a previous Office action, or ii) present rejected claims in better form for consideration on appeal.

Applicants submit that this application is in condition for allowance, and request that it be allowed. Should the Examiner believe that a conference would be helpful in advancing the prosecution of this application, Examiner is invited to telephone Applicants' attorney at the number below.

Applicants do not believe that any other fee is due in connection with this filing. If, however, Applicants do owe any such fee(s), the Commissioner is hereby authorized to charge the fee(s) to Deposit Account No. **02-2334**. In addition, if there is ever any other fee deficiency

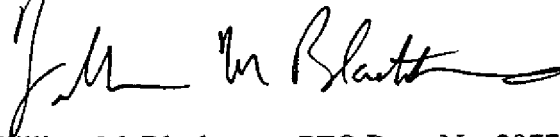
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or overpayment under 37 C.F.R. §1.16 or 1.17 in connection with this patent application, the Commissioner is hereby authorized to charge such deficiency or overpayment to Deposit Account No. 02-2334.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Wm Blackstone", written over a horizontal line.

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